ADDENDUM "2019-1" to the

AGREEMENT BETWEEN THE SEABROOK ECONOMIC DEVELOPMENT CORPORATION, THE CITY OF SEABROOK, AND WMF INVESTMENTS INC

This Addendum "2019-1", ("Addendum") is made this , 2019, and is incorporated into and will be deemed to amend the Economic Development Agreement between WMF Investments, Inc., ("WMF"), 3300 Hwy 146, LLC, a Texas limited liability corporation, the Seabrook Economic **Development Corporation** ("SEDC") and the **City Of Seabrook**, **Texas**, ("Agreement") for economic development incentives to construct improvements for 2 retail structures comprising a total of 28,600 square feet, more fully described as the "Retail Structures" in the subject Agreement, to be located in the City of Seabrook, on the tract identified as the "Project Facilities", all as referenced as the "Project" in Exhibit "A" of the Agreement, having an "Effective Date" of November 20, 2018, incorporated herein by reference. The purpose of this Addendum 2019-1 is to provide an extension for the time for substantial completion for construction of the Project, as specified in Section II. A. "Improvement to Project Facilities" of the Agreement, extending the time for Substantial Completion from November 20, 2019 to April 1, 2020 by this Addendum 2019-1. The City of Seabrook, the Seabrook Economic Development Corporation and WMF and 3300 Hwy 146, LLC, (collectively Developer/Owner) now agree to the following:

By this Addendum 2019-1, it is the desire of the parties to the Agreement to provide an additional extension until April 1, 2020 for the time for performance of the date of Substantial Completion of the Project by Developer/Owner as currently provided for under paragraph II. "Performance by Developer" Section A. "Improvement to Project Facilities" of the Agreement.

The Agreement currently provides, on page 4, under paragraph II. "Performance by Developer" Section A. "Improvement to Project Facilities" that the SEDC will provide reimbursement to WMF, subject to the terms and conditions contained in the Agreement that:

"Developer/Owner shall provide for the timely completion of the Project as delineated in the Application and this Agreement/Site Plan, and shall timely submit documentation as requested by the City of Seabrook in relation to the Project and components as provided herein. Developer/Owner has represented that construction of the Retail Structures will be substantially complete on or before 12 months after final approval of this Agreement by the Seabrook City Council and Developer/Owner shall obtain a certificate of occupancy for both of the Retail Structures within this time unless extended by EDC."

In accordance with Developer/Owner's request and consideration by the SEDC, it has been determined that the Agreement shall now provide:

"Developer/Owner shall provide for the timely completion of the Project as delineated in its Application and this Agreement/Site Plan, and shall timely submit documentation as requested by the City of Seabrook in relation to the Project and components as provided herein. Pursuant to Developer/Owner's request for extension of time of Substantial Completion of the Project, the date for Substantial Completion of the Project shall now be extended to on or before April 1, 2020, conditioned upon final approval of this Addendum 2019-1 by the Seabrook Economic Development Corporation. and the Seabrook City Council. Developer/Owner shall obtain a certificate of occupancy for the Retail Structures within this time unless extended by SEDC and approved by City Council. Developer/Owner understands and agrees that the date for Substantial Completion shall not be further extended except by amendment of this Agreement, predicated upon a filed written application of Developer/Owner, prior to the date of Substantial Completion, demonstrating good cause shown for the requested extension, as finally determined by EDC and City Council. The failure of Developer/Owner to Substantially Complete the Project and obtain a certificate of occupancy for the Project by the above date shall constitute a material breach of contract and default, requiring Owner/Developer to refund all payments received from EDC pursuant to this Agreement and/or any fees waived by this Agreement, which shall be immediately due and payable under such circumstances."

Except as amended herein in this Addendum 2019-1, all other provisions of the Agreement shall remain in full force and effect. In case of conflict with this Addendum 2019-1 and the Agreement, this Addendum 2019-1 shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum "2019-1" in multiple copies, each of equal dignity, on this ____ day of _____, 2019.

[Execution Pages Follow]

SEABROOK ECONOMIC DEVELOPME	NT CORPORATION
111	
BY: Paul Dunphey, Board President	
DATE: 12/12/2019	, 2019
ATTEST:	,
Ernie Davis,	
Board Secretary	
CITY OF SEABROOK, TEXAS	
Thomas G. Kolupski, Mayor	
DATE:	, 2019
ATTEST:	
Dahin Hiako TDMC	
Robin Hicks, TRMC City Secretary	

WMF INVESTMENTS, INC
BY: President/Authorized Representative
BY: President/Authorized Representative
PRINT: W.M. Fuedeichs, JR
DATE: /2 ~ 6 , 2019
3300 Hwy 146, LLC Mm. Friaknich
BY: President/Authorized Representative
PRINT: WM. Fuedeichs, JR
DATE: /2-6-/9, 2019

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of November 20, 2018, by and between the Seabrook Economic Development Corporation, situated in Harris County, Texas ("EDC"), and WMF Investments, Inc., a Texas corporation, with registered agent Steven L. Jenkins at the registered office at 711 W. Bay Area Blvd., Suite 200, Webster, Texas 77598; 3300 Hwy 146, LLC, a Texas limited liability corporation with registered agent William M. Friedrichs Jr, at 16865 Diana Lane, #200, Houston, Texas 77058, in relation to construction improvements for a retail shopping center to be named "Retail at the Commons", 3300 Hwy 146 at Towers Blvd, Seabrook, Texas 77586 (collectively sometimes referred to herein as "Owner" or "Developer"). EDC and Owner are sometimes collectively referred to herein as the "Parties".

WITNESSETH:

WHEREAS, Developer/Owner has filed an Application and supporting documentation with the EDC for economic incentives and proposes to make site improvements on a tract of land of approximately 3.4650 acres, described as Reserve "D" of the Final Plat of The Commons at Seabrook, a subdivision in the Ritson Morris Survey, Abstract 52, located in the City of Seabrook, Harris County, Texas, as more particularly described in a copy of the recorded General Warranty Deed, attached hereto as Exhibit "A" and incorporated by reference, to construct two structures/buildings for retail use (the "Project Facilities"); and

WHEREAS, Developer/Owner proposes to construct new site improvements for the Project Facilities, consisting of the construction of two new retail structures comprising 14,300 square feet each, (for a total of 28,600 square feet), with an additional 1000 square foot patio for each structure, ("Retail Structures") all with an estimated improved value of \$10,000,000 after completion and has requested incentives from EDC totaling \$64,162.75 for reimbursements of building permit fees and impact fees, ("Incentive Requests") as referenced in its Application, attached hereto as Exhibit "B" and incorporated by reference. Developer/Owner has submitted its plans, (as depicted in the attached final Site Plan referenced as Exhibit B-1, a true and correct copy of which is attached hereto and incorporated within the exhibits included in Exhibit "B"),

and dependent upon specific retail use of the Retail Structures, Developer/Owner estimates that after completion it will create or retain 25-40 full and part time jobs, (estimate only dependent upon specific retail use of Retail Structures). The Application, included the Site Plan, supporting documents and the above representations of Developer/Owner which are collectively referenced herein as the "**Project**"; and

WHEREAS, Developer/Owner has applied to the EDC for a business incentive grant to help defray a portion of the costs of construction for the Project referred to above, a copy of which Application, specifically including the final Site Plan, Exhibit B-1 (all such documents collectively referred to herein as the "Application") which are attached hereto and made a part hereof as Exhibit "B", and are incorporated by reference. The representations contained in the Application, as well as Owners representations before the EDC, are being specifically relied upon by the EDC as true and correct in considering Developers/Owners Application for the Project and subject incentives for relocation of the subject restaurant; and

WHEREAS, at the EDC meeting on August 16, 2018, Developer/Owner, through its authorized representative, discussed its application submitted to the EDC for construction of improvements of the Retail Structures and requested EDC to fund the Incentive Request based upon its representations, which the EDC is relying upon for evaluation; and

WHEREAS, pursuant to the Texas Local Government Code, Chapters 501 and 505 together with related authority, Economic Development Corporations of municipalities are authorized to establish programs to promote the creation or retention of jobs and/or that promote or develop new or expanded business enterprises in the municipality and in accordance with such enabling laws; and

WHEREAS, in accordance with such enabling laws, EDC has adopted an "Economic Development Incentive Program" ("Program"), as provided for in EDC Resolution 2018-1," and related incentives as provided by law; and

WHEREAS, EDC hereby finds and determines that Developer's/Owner's proposed Project, together with the proposed Project Facilities, as set forth in the Application/Incentive Requests, its presentation before EDC on August 16, 2018, the Site Plan for the Retail Structures, and related documentation, meets the minimum eligibility requirements for an economic incentive grant pursuant to the Program, and legal requirements, subject to the terms

and conditions contained in this Agreement; and

WHEREAS, EDC hereby finds and determines that the Project, as depicted by Developer/Owner in the Application, related correspondence, and presentation as reflected by the minutes of the EDC, encourages the creation or retention of jobs and/or promotes or develops new or expanded business enterprises in the municipality and can be reasonably anticipated to act as a catalyst for further economic development, particularly needed retail in the City of Seabrook; and

WHEREAS, EDC, in strict reliance upon Developer's/Owner's representations, desires to provide an economic development incentive grant under the Program, as provided hereafter, to induce Developer/Owner to proceed with the implementation of the represented Project; now therefore,

FOR AND IN CONSIDERATION of the mutual promises, covenants, and agreements herein, the Parties agree as follows:

- I. <u>Inducement by EDC.</u> Conditioned upon: the findings of the above preamble being true and correct; Developer's/Owners' representations as being true and correct; Owners compliance with the guidelines of the Program, City Code of Ordinances, statutes/related law, and this Agreement; approval of this Project and Agreement by the Seabrook City Council; and completion of the Project/Project Facilities in accordance with the final approved Site Plan, with compliance determined solely by EDC; EDC will provide, in the form of a reimbursement to Developer/Owner, an economic incentive grant ("Grant"), for the Project/Project Facilities, a total amount not to exceed \$64,162.75 as provided hereafter in accordance with the Project Application/Site Plan:
- (a) Reimbursement of City building permit fees/impact fees in an amount not to exceed \$64,162.75 to be disbursed by EDC subject to the following conditions:
- (1) an amount not to exceed \$32,081.36 upon completion of the first of the two of the Retail Structures; further conditioned upon Owner/Applicant submitting evidence of issuance of a certificate of occupancy for the structure and sufficient evidence of the amount paid to City for building permits/impact fees, approved reimbursement payment to be made by EDC 30 days after submittal of all such evidence; and
 - (2) an amount not to exceed \$32,081.35 upon completion of the second of the

two Retail Structures; further conditioned upon Owner/Applicant submitting evidence of issuance of a certificate of occupancy for the structure and sufficient evidence of the amount paid to City for building permits/impact fees, with approved reimbursement payment to be made by EDC 30 days after submittal of all such evidence.

II. Performance by Developer.

- A. Improvements to Project Facilities. Developer/Owner shall provide for the timely completion of the Project as delineated in the Application and this Agreement/Site Plan, and shall timely submit documentation as requested by the City of Seabrook in relation to the Project and components as provided herein. Developer/Owner has represented that construction of the Retail Structures will be substantially complete on or before 12 months after final approval of this Agreement by the Seabrook City Council and Developer/Owner shall obtain a certificate of occupancy for both of the Retail Structures within this time unless extended by EDC.
- **B.** Funding. Grant funds provided hereunder by EDC shall be contingent on compliance with the provisions of Sections I and II herein.
- III. Recapture for Default. This Agreement may be terminated if Developer/Owner refuses, fails or neglects to substantially comply with any of the terms of this Agreement or, if any representation made by Owner is false or misleading in any material aspect. Termination of this Agreement may be effected if any such default is not cured within thirty (30) days after written notice by the City to Owner.
- IV. <u>Jurisdiction</u>. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas. Venue for any action arising out of this Agreement shall be exclusively in Harris County, Texas.
- V. <u>Notices</u>. Any notice hereunder shall be given in writing to the party for whom it is intended, in person or by certified mail, at the following addresses or such future addresses as may be designated in writing:

If to Owner/Developer:

WMF Investments, Inc 3300 Hwy 146, LLC William M. Friedrichs Jr 16865 Diana Lane, #200 Houston, TX 77058

If to EDC:

City Manager City of Seabrook 1700 First St. Seabrook, Texas 77586

Notice shall be deemed received upon actual receipt or upon refusal of receipt.

VI. Assignment and Succession. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and assigns of the respective parties. All rights hereunder may be assigned by Developer/Owner without restriction to any wholly owned subsidiary or affiliate of Developer/Owner or other entity controlled by Developer/Owner or by a subsidiary or affiliate of Developer/Owner, provided that notice of each assignment shall be given in writing to EDC, but no other assignment shall be effective without the EDC's written approval and consent. Provided further, no assignment hereunder shall be effective without the written acknowledgment and acceptance by the assignee of the duties and obligations of Developer/Owner set forth in this Agreement. Such approval shall not be unreasonably withheld.

VII. <u>Time of Essence</u>. Time is of the essence of this Agreement. However, in the event the date specified or computed under this Agreement for the performance of an obligation by any party, or for the occurrence of any event provided herein, shall be a Saturday, Sunday or "legal holiday" (defined for purposes hereof as any holiday observed by the City), then the date of such performance or occurrence shall automatically be extended to the next calendar day that is not a Saturday, Sunday or legal holiday.

VIII. <u>Modification/Entire Agreement Expressed.</u> No modification of this Agreement shall be valid or binding unless such modification is in writing, duly dated, and signed by the Parties. This Agreement constitutes the entire agreement between the parties. No party shall be bound by any term, conditions, statement, or representations, oral or written, not herein contained.

IX. <u>Severability</u>. If any term or provision of this Agreement is held to be illegal, invalid, or unenforceable, the legality, validity, or enforceability of the remaining terms or

provisions of this Agreement shall not be affected thereby; and in lieu of such illegal, invalid, or unenforceable term or provision, there shall be added automatically to this Agreement, a legal, valid, or enforceable term or provision, as similar as possible to the term or provision declared illegal, invalid, or unenforceable.

- X. <u>Paragraph Headings</u>. The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraph contained herein.
- XI. Operations. It is expressly agreed that nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business in the Project Facilities. The EDC and Developer/Owner acknowledge and agree that Developer/Owner may, at its sole discretion and at any time cease the operation of its business in the Project Facilities, and EDC hereby waives any legal action for damages or for equitable relief which might be available because of such cessation of business activity by Developer/Owner except for the recapture of Grant funds as specifically set forth in this Agreement. Provided, however, if Developer/Owner fails to construct the improvements to the Project Facilities as set forth herein, Developer/Owner agrees to reimburse EDC for all costs expended by EDC or for which it is legally obligated to expend, as a result of its performance of this Agreement. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture, or other entity between EDC and Developer/Owner, with regard to the Project, and EDC shall have no right hereunder to control the operation of Developer/Owner or the Project. Provided, however, nothing contained herein shall be construed as waiving or limiting the power and authority of EDC or the City of Seabrook to exercise its police powers, or exempt Developer/Owner from complying with lawfully adopted rules, regulations, ordinances, or laws of the State of Texas or EDC.
- XII. Agreement Product of Negotiation. The Parties agree that this Agreement is the product of negotiation, that each Party has been represented by counsel of their own choosing, that each has freely entered into this Agreement after consulting with their counsel, and that this Agreement contains the terms and conditions requested and required by each. This Agreement shall be construed as having been drafted by all Parties and no term or provision shall be construed either in favor of or against a party on the basis that a party did or did not author

this Agreement.

XIII. <u>Limit Of Appropriation</u>. Prior to the execution of this Agreement, Developer/Owner has been advised by the EDC and Developer/Owner clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the EDC shall have available as a condition for payment, only those sums as expressly provided for under this Agreement for this fiscal year to discharge any and all liabilities which may be incurred by the EDC. The total compensation that Developer/Owner may become entitled to hereunder and the total sum that the EDC shall become liable to pay to Developer/Owner hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

The Parties specifically acknowledge that the funds allocated for payment to Developer/Owner by EDC are derived from sales tax revenues, and that EDC has only estimated the anticipated tax revenues to be collected during the term of this Agreement in its budget for Fiscal Year 2017-18, and that no estimates have been made of tax revenues for future fiscal years. Developer/Owner further understands, acknowledges, and agrees that if the tax revenues actually collected in any fiscal year are estimated to be or are actually less than the estimated tax revenues anticipated to be collected during the term of this Agreement, EDC shall be under no obligation to reimburse Developer/Owner for the amount set forth in Section I. Developer/Owner further acknowledges that this Agreement could be anticipated to extend into future fiscal years, and funds may not be available or budgeted in future fiscal years, and that any anticipation of extension may not be enforceable under the Constitution and laws of the State of Texas.

XIV. Employment of Undocumented Workers. Developer/Owner acknowledges prior notice provided by EDC/City, that all Agreements related to the construction of the Project shall contain notifications required by Texas Govt. Code Section 2264, such as the following: During the term of this Agreement, the Developer/Owner agrees not to knowingly employ any undocumented workers as defined in Tex. Govt. Code Sec. 2264.001. If convicted of a violation under 8 U.S.C. § 1324a(f), the Developer/Owner shall repay the amount of the Grants/incentives and any other funds received by the Developer/Owner from the City as of the date of such violation not later than 120 days after the date the Developer/Owner is notified by the City of a

violation of this section, plus interest from the date the Grant/incentive was paid to the Developer/Owner, at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the City) as its prime or base commercial lending rate. The payment of interest shall be as if it had been accruing from the date the Grants/incentives were paid to the Developer/Owner until the date the Grants/incentives are repaid to the City.

IN WITNESS WHEREOF, and as authorized respectively by the EDC, the City Council of Seabrook and WMF Investments, Inc. a Texas corporation, and 3300 Hwy 146, LLC, a Texas limited liability corporation Developer/Owner, by and through their respective authorized agents, the parties have executed this Agreement effective the day and year first written above.

SEABROOK ECONOMIC DEVELOPMENT CORPORATION

BY: Paul Dunphey, Board President

DATE: October 11 2018

ATTEST:

Ernie Davis, Board Secretary

WMF INVESTMENTS, INC President/Authorized Representative PRINT: W.M. Friedrichs St. DATE: October 3300 Hwy 146, LLC BY: President/Authorized Representative PRINT: W.M. Friedrichs, Sr. DATE: October 9 , 2018 CITY OF SEABROOK, TEXAS Thomas G. Kolupski BY: Mayor DATE: _ 2018 ATTEST: Robin Hicks, TRMC

City Secretary

Permit Fees For: 3300 A & B Bayport Blvd. (Commons Retail Dev.)

Fill in boxes Only

Type of Construction:

Estimated Cost of Construction \$3,000,000.00

Class Cost (merso, fry \$55.45

Project valued over: \$500,000.00

: \$1,660.00

Permit fee for first Cost per \$1,000 or fraction over first permit fee equils:

\$500,000.00

\$2.00

Multi. By 2,500 : \$5,000.00

Building Permit: \$6,660.00

Commercial Construction: \$6,660.00

Plan Review Fee: \$3,330.00

Total Buidling Permit Fee: \$16,650.00

Domestic Meter

Ordinance: 2015-72

Meter Size:

Water Impact Fee :17,308.00 Sewer Impact Fee 23,096.00

Tap Fee :\$1,200.00

Irrigation Meter

Ordinance: 2015-72

Meter Size:

1 ln.

Water Impact Fee :5,408.75

Sewer Impact Fee : 0.00

Tap Fee : \$500.00

Fire Meter

dinance: 2015-72

Meter Size:

None

Water Impact Fee : No Fee

Sewer Impact Fee : No Fee

Tap Fee: No Fee

\$250 multiplied by number of dwelling units:

0

Parks Fee: 0.00

Estimate of Fees Due: \$64,162.75

Building and Development Only, Separate permit fees will be assesed on individual MEP, Fire, Irrigation, and Sign Permits

Date Printed -

7/10/2018











3300 HWY 146 AT TOWERS BLVD SEABROOK TX

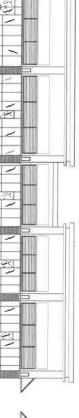
30,600 SQFT LEASE SPACE

16000 SQFT RESTAURANTS @ 8CARS / 1000SQFT= 128 SPACES

12600 SQFT RETAIL

@ 5.5 CARS / 1000SQFT =68 SPACES PROVIDED





RETAIL AT THE COMMONS

PROJECT ADDRESS:

3300 HWY 146 BUILDING 'A' & 'B' AT TOMERS BLVD. SEABROOK, TEXAS

BUILDING SUMMARY

PROJECT DESCRIPTION

PROJECT SCOPE CONSISTED OF 11/20 SQ.FT. 11/20 NEW RETAIL BUILDINGS OF 14/200 SQ.FT. EACH. TOTAL BUILDING AREA = 28/600 SQ.FT.

TYPE OF CONSTRUCTION: CATEGORY TYPE II-A SPRINKLED

RETAIL BUILDING AREA:

OCCUPANCY CLASSIFICATION: GROSS BUILDING AREA: 28,600 SQ.FT.

RETAIL CENTER: GROUP M MERCANTILE

CODE INFORMATION

TDLR #:

EABPRJB8810984

GOVERNING AGENCY(5) CITY OF SEABROOK, HARRIS COUNTY, TEXAS GOVERNING CODES:

2015 INTERNATIONAL BUILDING CODE
2015 INTERNATIONAL FIRE CODE
2015 INTERNATIONAL ELLMBING CODE
2015 INTERNATIONAL PELMBING CODE
2015 INTERNATIONAL BURBOY CONSERVATION CODE
2015 INTERNATIONAL GAS CODE

FIRE CODES:

FIRE PROTECTION COLUMNS
FIRE PROTECTION FLOOR
FIRE PROTECTION ROOF/CEILING

NON RATED NON RATED NON RATED

MAXIMIM DISTANCE OF TRAVEL

EXIT MUST BE PROVIDED FOR THE HANDICAPPED

3300 HWY 146 @ TOWERS BLVD SEABROOK, TEXAS

CORRIDORS
20 FT. DEAD END MAXIMUM CORRIDOR

FIRE EXTINGUISHER MINIMUM INTERIOR FINISH CLASSIFICATIONS

TYPE II TYPE I CLASS 2A DISTANCE 15 FT -AREA 5000 SQ.FT.

SITE DATA:

ZONING:
SITE AREA:
BLD'6: "A" AREA: I4,
BLD'6: "b" AREA: I4,
TOTAL BLD'6: AREA:
LOT COYERAGE: 14,300 S.F. 14,300 S.F. "PLANNED UNIT DEVELOPMENT (SEE THE COMMONS AT SEABROOK PUD" 150,916 S.F.

28,600 S.F. 20%

FRONT -SIDE -SIDE -

REAR -

HITBACKS:

(I) SPACE PER 300 SQ.FT. GROSS AREA

PARKING REQU

PARKING PROVIDED: 26,600 / 300 = (45)
(162) SPACES INCLUDING
(4) P.H. SPACES (2) V.A. SPACES

L'SESIGNERS I IZBIR GULT FREEWAY COSTON TENAS TROSA PHONE: 28-705-9786

A PROJECT OF WMF INVESTMENTS

BUILDERS ARCO

957 NASA PKWY # 190 HOUSTON, TX 77058

PH -713-299-960

